

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF INDIANA  
HAMMOND DIVISION

IN RE:	)	
	)	
J&J ENTERTAINMENT GROUP, INC.,	)	CASE NO. 08-23144 JPK
	)	Chapter 11
Debtor.	)	
*****	)	
VENDRAMINI CONSTRUCTION, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	ADVERSARY NO. 08-2121
	)	
CIRCLE R MECHANICAL, INC., KRG/I-65	)	
BEACON HILL, LLC, FIFTH THIRD BANK,	)	
J & J ENTERTAINMENT GROUP, INC.,	)	
	)	
Defendants.	)	

ORDER REGARDING MOTION TO DISMISS CASE ("MOTION")

The Motion was filed by the plaintiff on September 15, 2009. Defendants have filed answers in this case, and thus the Motion solely by the plaintiff is beyond the scope of Fed.R.Bankr.P. 7041/Fed.R.Civ.P. 41(a)(1)(A)(i). There is no stipulation filed by all parties as to dismissal, and thus the Motion does not present a circumstance provided for by Fed.R.Bankr.P. 7041/Fed.R.Civ.P. 41(a)(1)(A)(ii). The Motion falls within the provisions of Fed.R.Bankr.P. 7041/Fed.R.Civ.P. 41(a)(2): this provision requires that any defendant who has filed a counterclaim must be provided with an opportunity to object to the dismissal. KRG/I-65 Beacon Hill, LLC has filed a counterclaim. Pursuant to the provisions of Fed.R.Civ.P. 41(a)(2), the court considers it "proper" that dismissal of this case be effected only by stipulation entered into among the plaintiff and all parties who have not been previously dismissed from this case. Rather than attempt to sort out who has been dismissed by whom with respect to what, the court will not dismiss this case until the plaintiff has filed a stipulation regarding dismissal of the case consented to by all of the defendant parties.

IT IS ORDERED that the Motion is denied, without prejudice to the filing of a subsequent motion which complies with the provisions of Fed.R.Civ.P. 7041/Fed.R.Civ.P. 41(a)(1)(A)(ii).

Dated at Hammond, Indiana on October 9, 2009.

/s/ J. Philip Klingeberger  
J. Philip Klingeberger, Judge  
United States Bankruptcy Court

Distribution:  
Attorneys of Record